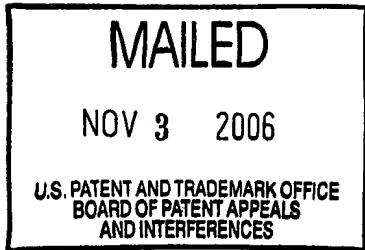


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte MATTHEW ACKLEY
and
JOSEPH APARO

Application 09/441,388

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on October 31, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on January 11, 2006.

37 CFR § 41.37(c)(1)(v) (2005) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on pages 6 and 7

Appeal Brief filed January 11, 2006 is deficient because it does not map the claimed invention to the independent claims. Correction is required.

In addition, the Appendix to the Appeal Brief does not appear to contain a correct copy of claims 38 and 46. Specifically, the final paragraph of claim 38 is missing the word “presenting” (. . . by the accountholders, and wherein the steps of [presenting] present the first networked sales

interface . . .). The final paragraph of claim 46 appears to be missing the phrase “and wherein the steps of presenting present different headers for the first networked sales interface and for the second network sales interface.”¹ Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellants to submit a substitute Appeal Brief which corrects the “Summary of Claimed Subject Matter” and contains a corrected Appendix, particularly with respect to claims 38 and 46;
- 2) for consideration of the substitute Appeal Brief; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: G. E. Edge for Dale Shaw
DALE M. SHAW
Deputy Chief Appeals Administrator
(571) 272-9797

DMS:psb

¹ The Amendment submitted May 10, 2004, included an amendment to claim 46. It should be noted that the phrase in question was missing from the copy of the claims appearing in the Amendment filed March 15, 2005 even though the identifier said “Previously Presented.”

Schwegman, Lundberg, Woessner & Kluth/Ebay
P.O. Box 2938
Minneapolis, MN 55402